



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Emulex Corporation

File: B-236732

Date: December 27, 1989

DIGEST

Where protester argues that awardee's proposed "equal" data storage system under brand name or equal procurement does not meet salient characteristics for mean-time-between-failure (MTBF), but protester's own proposed "equal" system would likewise fail to comply under the protester's calculation of MTBF, contracting officials have treated both offerors equally and there is no basis to sustain protest against award.

DECISION

Emulex Corporation protests the award of a subcontract for data storage systems to Fedmark, under request for proposals (RFP) No. 07090BJ, issued by the General Electric Company, a prime contractor operating and managing the Department of Energy's (DOE) Knolls Atomic Power Laboratory in Schenectady, New York. Emulex contends that Fedmark's proposed "equal" data storage system failed to conform to the salient characteristics of the brand name system listed in the solicitation.

We deny the protest.^{1/}

The solicitation requested proposals for the supply and installation of four "Emulex Model SM834 or equal" data storage systems in accordance with listed salient characteristics of the brand name system; it did not, however,

^{1/} While our Office generally will not review the award of subcontracts by government prime contractors, we will review such awards when made "by or for the government." Bid Protest Regulations, 4 C.F.R. § 21.3(m)(10) (1989). We generally consider contractors that manage and operate DOE facilities to be acting "for" the government. Container Products Corp., B-234368, June 8, 1989, 89-1 CPD ¶ 536.

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require the submission of descriptive literature to verify compliance. The salient characteristics included requirements for a minimum formatted storage capacity of 1,000 megabytes (plus or minus 20 percent) per disk drive and a minimum mean-time-between-failure (MTBF) of 30,000 hours. The solicitation provided for award to be made to the offeror whose conforming proposal offered the lowest cost to the government, calculated on the basis of the cost per unit of storage capacity furnished by the system.

The low cost proposal, at \$9,145.41 per gigabyte of storage capacity, was submitted by Fedmark. It offered an "equal" system composed of pairs of 760-megabyte disk drives; each pair of disk drives was concatenated, or linked, to form a single logical unit with a capacity exceeding the solicitation requirement for a minimum of 1,000 megabytes (plus or minus 20 percent) per disk drive. In a cover letter accompanying its offer, Fedmark certified compliance with the 30,000 hour MTBF requirement; it also furnished descriptive literature that appeared to claim a MTBF for the proposed 760-megabyte disk drives of no more than 30,000 hours. Emulex submitted the second low proposal, offering an "equal" system at \$10,922.11 per gigabyte; High-Tech Associates proposed an "equal" system at \$14,468.28 per gigabyte; and Emulex submitted (as an alternate) the fourth low proposal, offering the brand name system at \$15,863.51 per gigabyte. Award was therefore made to Fedmark on August 1, 1989, with delivery required within 4 weeks of the order. After first learning of the award on August 17, Emulex filed this protest with our Office on August 28.

Emulex generally questions whether Fedmark's proposal of concatenated disk drives complies with the salient characteristics. It specifically argues that Fedmark's solution does not meet the 30,000 hour MTBF requirement; Emulex maintains that if 2 individual disk drives each has a given MTBF of 30,000 hours, as seems to be indicated in Fedmark's unsolicited descriptive literature, then a concatenated unit comprised of the 2 linked physical disk drives will have an overall MTBF one-half that of the individual disk drives (i.e. 15,000 hours).

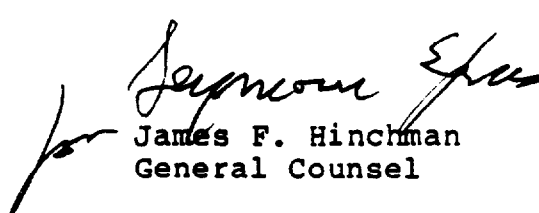
In its report, DOE does not specifically challenge Emulex's approach to calculating the MTBF of concatenated drives. Instead, the agency contends that it reasonably relied upon Fedmark's certification in its cover letter to a MTBF of 30,000 hours. In addition, it notes that the manufacturer of the storage system offered by Fedmark has furnished test data (after the award had been made and the protest filed), which the agency believes establishes a MTBF of 72,000 hours per drive; thus, according to the agency, "even assuming a

worst-case failure distribution curve," it is satisfied that Fedmark's concatenated 2-disk drive should have a MTBF greater than 36,000 hours.

We need not determine here whether Emulex's position is correct, or whether the agency reasonably relied on Fedmark's express agreement to comply with the MTBF requirement. This is because Emulex, in its apparent second low, "equal" proposal, likewise offered concatenated pairs of disk drives that would not satisfy the MTBF requirement. Specifically, Emulex claimed a MTBF of 50,000 hours for each individual disk drive, and conceded that the theoretical MTBF of the overall concatenated unit, under its position that linking the drives reduces the MTBF by one-half, would be only 25,000 hours. Thus, even if Emulex's analysis is correct, its proposed equal item would likewise fail to meet the salient characteristic for MTBF. It follows that, if Fedmark's proposal were found ineligible for award, Emulex's proposal would be rejected for the same reason. Since it appears that both Fedmark and Emulex were treated equally with respect to the salient characteristic for MTBF, we find no basis to sustain Emulex's protest in this regard.

Emulex speculates that Fedmark's proposed system failed to comply with other specific, listed salient characteristics. Based upon our review, however, we find no basis to question the determination of compliance made by the contracting officials; Emulex's arguments in this regard largely fail to take into account the fact that the salient characteristics were amended prior to closing to permit a certain amount of deviation (i.e., plus or minus 20 percent) from the characteristics of the brand name system. Emulex's protest does not establish that Fedmark's system deviates beyond this acceptable range.

The protest is denied.


James F. Hinchman
General Counsel